

SUMMARY ABATEMENT ORDER AND NOTICE OF HEARING

TERESO M. ICASIANO SR
32900 FALCON DRIVE
FREMONT CA 94555

RE: 450 N. 5th Street, San Jose, CA 95112
APN: 249-47-008

AGENDA ITEM:	4b
HEARING DATE	February 24, 2011
HEARING TIME:	6:30 p.m.
HEARING PLACE:	City Hall, Council Chambers 200 E Santa Clara Street San Jose, CA 95113

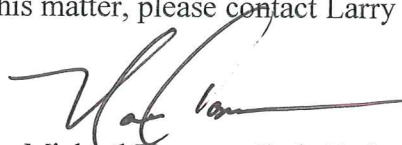
TO THE PROPERTY OWNER AND ALL OTHER PERSONS HAVING ANY LEGAL INTEREST IN THE ABOVE DESCRIBED PROPERTY LOCATED IN THE CITY OF SAN JOSE:

Please be advised that after inspections of the above described property by field investigators of the Code Enforcement Division, it has been determined that the property was found to be imminently dangerous based on the following conditions: the detached carport in the rear setback is in a serious deteriorated condition with non-anchored/deteriorated support posts; lack of cross bracing and/or deteriorated cross bracing; a sagging rear beam; and the structure is in danger of collapsing. In order to abate the imminent danger, the Code Enforcement Division found it necessary to restrict use of the carport for the parking of vehicles and any other use by placing caution – do not enter tape across the width of carport and posting two condemn signs – do not enter-do not occupy on the carport.

The costs of the abatement actions, including the total cost of the actions taken and any allowable inspection fees, will be invoiced to the property owner. The invoice shall be paid within 30 days from the date that the invoice is mailed. Failure to pay the invoice amount may result in the imposition of an assessment and a lien against the property in accordance with San Jose Municipal Code Section 17.02.350.

Any person having any record, title or legal interest in the property may appear and protest the abatement action taken as identified in this Notice of Hearing at the time and place specified above. Please be advised that pursuant to San Jose Municipal Code Section 17.02.120, the City Manager may file in the Office of the County Recorder a certificate declaring the property a Public Nuisance. Failure to file a written protest prior to the hearing date or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

Should you have any questions regarding this matter, please contact Larry Ng, Code Enforcement Inspector, at (408) 535-7873.



Michael Hannon, Code Enforcement Official
Planning, Building and Code Enforcement

Enclosure

OWNER: Tereso M. Icasiano Sr.
32900 Falcon Drive
Fremont, CA 94555

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HEARING DATE: February 24, 2011
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HEARING PLACE: City Hall, Council Chambers
200 E Santa Clara Street

ADDRESS: 450 N. 5th Street
APN: 249-47-008

INSPECTION REPORT

Status of Property

Multi-family residence located at 450 N. 5th Street, San Jose, CA 95112. Subject property has a detached carport in the rear setback and is in a state of major disrepair with non-anchored/deteriorated support posts; missing/non-anchored cross bracing and/or deteriorated cross bracing; and a sagging rear beam. The structure is in danger of collapsing. As part of this summary abatement, a red Condemned – Do Not Enter – Unsafe to Occupy sign was posted on the carport and yellow caution/do not enter tape placed across the entire width of the carport.

San Jose Municipal Code Violations

17.72.550 C4 Hazardous Conditions

Any property upon which there exists a hazardous condition constitutes blighted property. A property is considered to have a hazardous condition prohibited by this Chapter if any one or more of the following conditions exists on the property:

Items are present that are inadequately secured or protected and, due to their accessibility to the public, may prove hazardous including, without limitation: Structurally unsound fences or structures.

17.72.520 C State of Disrepair

Any building or structure that is in a state of disrepair constitutes property blight. A building or structure is in a state of disrepair when any of the following conditions exist:

Building exteriors, walls, fences, retaining walls, driveways, or walkways that are broken or deteriorated to the extent that the disrepair is visible from a street or neighboring properties.

17.72.040 General Conditions -- The presence of any one or more of the following conditions on property constitutes property blight:

Any condition that is detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code Section 3480.

California Civil Code section 3480 provides: A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Detached carport in the rear setback is in a state of major disrepair with non-anchored/deteriorated support posts; missing/non-anchored cross bracing and/or deteriorated cross bracing; and a sagging rear beam.

Chronology

- 11/23/10 Code Enforcement Inspector Larry Ng opened File # 201016302 to conduct an enhanced multiple housing inspection of the subject property. Inspector Ng checked the County of Santa Clara Assessor and Recorder databases, the Planning, Building and Code Enforcement AMANDA database, and the RealQuest (a private company which sells real property information) database to determine whom the property owner is. These databases disclosed the owner as Tereso M. Icasiano Sr. with a mailing address of 32900 Falcon Dr., Fremont, CA 94555.
- 1/5/11 A scheduled multiple housing inspection was conducted by Inspector Larry Ng on this property under File# 201016302. At that time, Inspector Ng observed the following condition of the detached carport:
- The support posts for the rear beam were not anchored to the footings; the bottom of the support posts were deteriorated; the cross bracing for the rear support posts were either missing, deteriorated and/or not anchored to the support posts; the rear beam located near the north end of the carport was sagging; the steel corrugated filler panel's frame located on the south side of the carport is not anchored to the footing and had exposed jagged metal edges; and sections of the carport's roof either had holes in it or deteriorated wood sections. Eleven (11) photographs were taken of the Subject Property. See true and correct photographs attached hereto as **Exhibit A**.
- 1/7/11 Based on his observations of the carport, Inspector Ng believed the condition of the carport to be hazardous i.e. in danger of falling down. A separate file, #201100780 was opened to pursue code violations for the carport's condition.
- 1/12/11 Inspector Ng requested Code Enforcement Inspector Karl Van Gastel assistance in inspecting the carport. Inspector Van Gastel is a former Building Inspector for the City of San Jose Building Division. Inspectors Ng and Van Gastel arrived at the property and reinspected the carport. Inspector Van Gastel concurred with Inspector Ng's belief that the carport's condition was deemed hazardous since it may collapse at any time. Inspector Van Gastel also pointed out to Inspector Ng that a section of the carport's front beam is

deteriorating due to dry rot. Inspector Van Gastel said a building permit will be needed to repair the structure. Two (2) photographs were taken of the Subject Property. See true and correct photographs attached hereto as **Exhibit B**.

1/13/11

Inspector Ng telephoned Lloyd Kipp, the property manager, who accompanied Inspector Ng on the January 5, 2011 initial housing inspection of the subject property and apprised him of reinspection findings. Inspector Ng further advised him that the tenants cannot use the carport area due to its hazardous condition. Kipp said he would provide notices to the tenants. Inspector Ng asked Kipp for the property owner's phone number, which was later provided. Kipp informed Inspector Ng that Joe Icasiano was managing the property for his father. Inspector Ng telephoned Joe Icasiano, who did not answer the phone. Inspector Ng left a message on his voicemail apprising him of inspection findings and that the carport cannot be used by the tenants and that a compliance order will be issued to repair the structure.

Inspector Ng met with Code Enforcement Supervisor Mollie McLeod to discuss the inspection findings and the issuance of the Compliance Order. Supervisor McLeod apprised Inspector Ng that Summary Abatement is needed to restrict the use of the carport.

1/14/11

Inspector Ng telephoned Kipp and Joe Icasiano and left a message on their voicemails to call back regarding the course of action being taken on the property.

Inspector Ng and Code Enforcement Inspector Curtis Riley posted "condemned" signs to the carport structure. Inspector Ng had already previously placed caution tape across the width of the carport. Two (2) photographs were taken of the Subject Property. See true and correct photographs attached hereto as **Exhibit C**.

Inspector Ng received a telephone call from Joe Icasiano. Inspector Ng apprised Mr. Icasiano of summary abatement he has taken in regards to restricting the use of the carport. Inspector Ng also explained the Appeals Hearing Board Summary Abatement process to him and that the hearing is scheduled for February 24, 2011. Mr. Icasiano told Inspector Ng the following: In the past, he was helping his father handle the property resolving problems and financially helping out. He no longer wants to be involved. Mr. Icasiano further stated that he has had no help from other family members to take care of the property. His father is 84 years old and has very little money. Mr. Icasiano mentioned there has been deferred maintenance on the property. For future contacts with the property owner, Mr. Icasiano directed Inspector Ng to contact his sister, Connie Cadados, ph# 209-825-2563, because she, Connie's husband and his brother will be handling the property. Inspector Ng requested Mr. Icasiano to advise his sister, Mrs. Cadados, of his discussion

with Inspector Ng regarding the enforcement action taken on the subject property. Inspector Ng asked Mr. Icasiano to have his sister contact him, if she had any questions. Mr. Icasiano told Inspector Ng he would.

CODE ENFORCEMENT STAFF RECOMMENDATIONS

Staff recommends that the San Jose Appeals Hearing Board uphold the action taken by the City of San Jose to restrict the use of the carport.

ATTESTING STATEMENT OF CODE ENFORCEMENT INSPECTOR

1. I am the Code Enforcement Inspector for the City of San Jose assigned to investigate the potential Municipal Code Violations at 450 N. 5th Street, that are the subject of this Inspection Report.
2. I have prepared and reviewed this Inspection Report and can attest to the truth of the matters stated above.



Larry Ng
Code Enforcement Inspector

Exhibit A



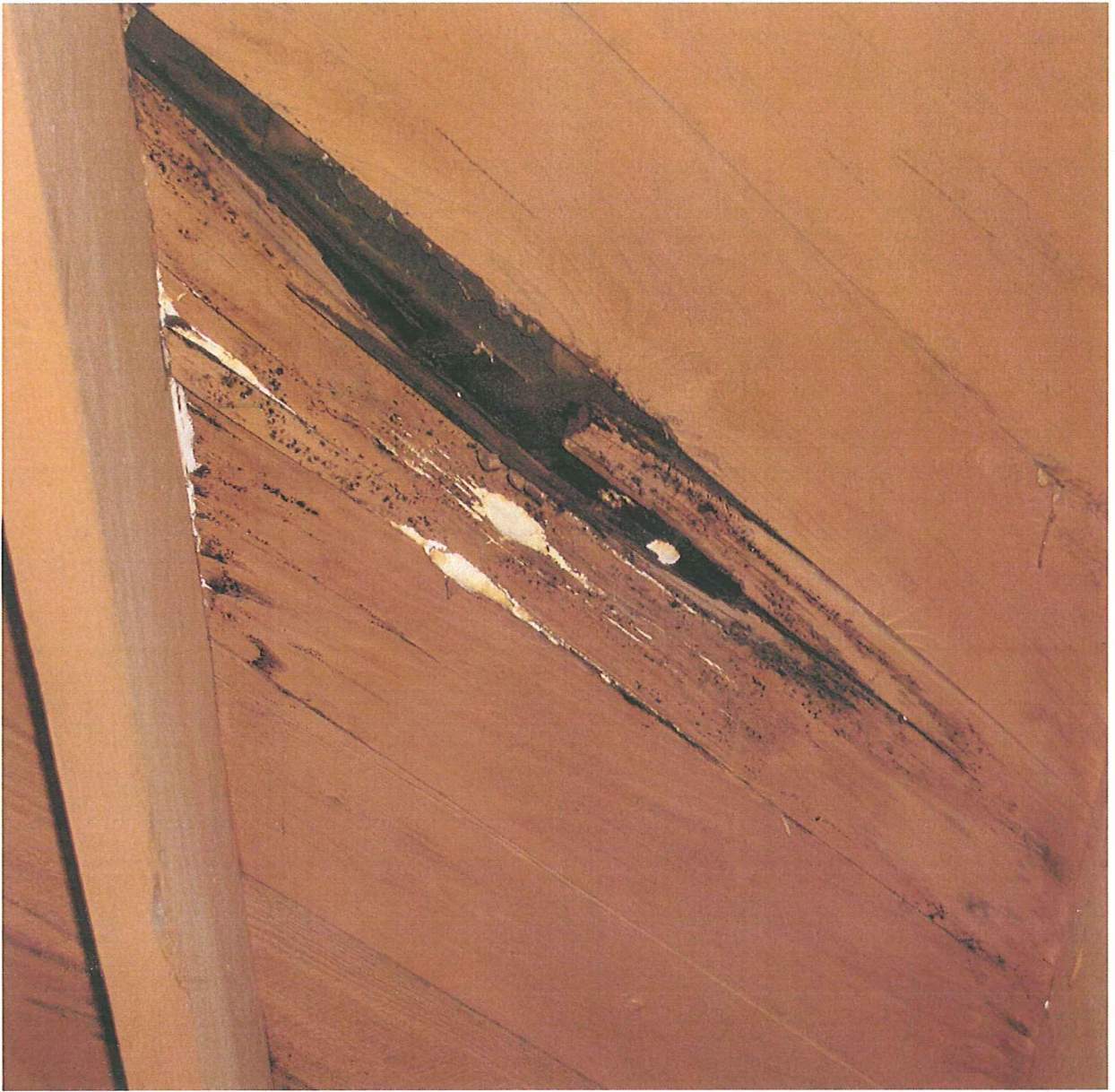
Deteriorating roof section of the carport



Deteriorating roof section of the carport



Deteriorating roof section of the carport



Deteriorating roof section of the carport



Deteriorating roof section of the carport



Non anchored section of cross bracing



Sagging rear beam; support post/cross bracing not anchored to the footing;
cross bracing not anchored to the posts; missing cross bracing



Cross bracing not anchored to the posts, support post not anchored to the footing



Close up of non anchored deteriorated support post



Close up of another section of a non-anchored deteriorated support post



Metal corrugated side panel with jagged edges and non-anchored support post

Exhibit B



No cross bracing



Side view of support posts/cross bracing

Exhibit C



Posting of Condemn Sign and placement of caution tape



Posting of Condemn Sign and placement of caution tape